

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

<b>DAVID W. SPINDLE,</b>	§	
	§	
<b>PLAINTIFF,</b>	§	
	§	
<b>vs.</b>	§	<b>CA NO. 4:18-CV-818-SDJ-KPJ</b>
	§	
<b>CKJ TRUCKING, L.P., AND</b>	§	
<b>CKJ TRANSPORT OF NORTH TEXAS, LLC</b>	§	
	§	
<b>DEFENDANTS.</b>	§	

**DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION *IN LIMINE*  
(DOCKET NO. 71)**

Pursuant to the Court's *Scheduling Order* (Docket No. 15), Defendants respectfully file this response to *Plaintiff's Motion In Limine* (Docket No. 71).

**PLAINTIFF'S STATEMENTS TO THE TEXAS WORKFORCE COMMISSION  
ARE ADMISSIBLE:**

Without citing any legal authority for support, Plaintiff objects to "Any reference by Defendants to the determination and fact-finding process by the Texas Workforce Commission regarding Plaintiff's claim for unemployment benefits." Docket No. 71, Item 6. However, the objection/contention is without merit.

Wholly irrespective of the TWFC's ultimate decision regarding whether Plaintiff was entitled to or disqualified from receiving unemployment benefits, during the TWFC proceedings, Plaintiff admittedly made multiple statements wholly inconsistent with his disability discrimination/wrongful discharge claims in this case including statements to the TWFC, *inter alia*:

REASON NO LONGER EMPLOYED	
QUIT	Verbal statement by telephone
I QUIT DUE TO MEDICAL REASONS	

1

and

Statement :1 / 16  
 Statements From: DAVID W SPINDLE  
 Why leave last job?  
 I QUIT DUE TO MEDICAL REASONS  
 What prompted this decision?

2

As a matter of law, Plaintiff's statements are admissible as admissions of a party opponent.

### **CONCLUSIONS AND REQUESTED RELIEF**

For all of the foregoing reasons, Item No. 6 in *Plaintiff's Motion In Limine* should be **DENIED**.

Respectfully submitted,

/s/ John L. Ross

**JOHN L. ROSS<sup>3</sup>**

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### **ATTORNEYS FOR DEFENDANTS**

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<sup>1</sup> Plaintiff admitted he has no reason to dispute the accuracy of the TWFC's records (Depo. p. 93:7-9): "Q. Do you have any reason to dispute the accuracy of this record from the Texas Workforce Commission? A. No."

<sup>2</sup> Plaintiff's Deposition 91:19 to 92:6, 93:7 to 93:9 and 97:2 to 98:3.

<sup>3</sup> Board Certified in Labor & Employment Law and Civil Trial Law by the Texas Board of Legal Specialization

**CERTIFICATE OF SERVICE**

Pursuant to *Fed. R. Civ. P.* 5(b)(2)(E) and 5(b)(3), I hereby certify a true and correct copy of the foregoing document was filed electronically on this 23rd day of December, 2019. Parties may access this filing through the Court's system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

/s/ John L. Ross

**JOHN L. ROSS**